



General Assembly

January Session, 2023

***Raised Bill No. 1147***

LCO No. 4688



Referred to Committee on ENVIRONMENT

Introduced by:  
(ENV)

***AN ACT CONCERNING THE ENVIRONMENTAL JUSTICE PROGRAM  
OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL  
PROTECTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-20a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) As used in this section:

4 (1) "Environmental justice community" means (A) a United States  
5 census block group, as determined in accordance with the most recent  
6 United States census, for which thirty per cent or more of the population  
7 consists of low income persons [who are not institutionalized] and have  
8 an income below two hundred per cent of the federal poverty level; or  
9 (B) a distressed municipality, as defined in subsection (b) of section 32-  
10 9p;

11 (2) "Affecting facility" means any (A) electric generating facility with  
12 a capacity of more than ten megawatts; (B) sludge or solid waste  
13 incinerator or combustor; (C) [sewage treatment plant with a capacity of

14 more than fifty million gallons per day] publicly owned treatment  
15 works in a community with combined sewers that transport both storm  
16 water and sanitary sewage, or an expanded design flow rate for any  
17 publicly owned treatment works; (D) intermediate processing center,  
18 volume reduction facility, solid waste transfer station, resource recovery  
19 facility, chemical recycling facility or multitown recycling facility with a  
20 combined monthly volume in excess of twenty-five tons; (E) [new or  
21 expanded] landfill, including, but not limited to, a landfill that contains  
22 ash, construction and demolition debris or solid waste; (F) medical  
23 waste incinerator; [or] (G) major source of air pollution, as defined by  
24 the federal Clean Air Act; (H) pipeline, terminal or bulk commercial  
25 storage facility not providing direct-to-consumer retail or delivery for  
26 fossil fuels, including coal, oil, petroleum and natural gas; or (I) facility  
27 with a diversion of more than two million gallons of water per day.  
28 "Affecting facility" shall not include (i) the portion of an electric  
29 generating facility that uses nonemitting and nonpolluting renewable  
30 resources such as wind, solar and hydro power or that uses fuel cells,  
31 (ii) any facility for which a certificate of environmental compatibility  
32 and public need was obtained from the Connecticut Siting Council on  
33 or before January 1, 2000, [or] (iii) a facility of a constituent unit of the  
34 state system of higher education that has been the subject of an  
35 environmental impact evaluation in accordance with the provisions of  
36 sections 22a-1b to 22a-1h, inclusive, and such evaluation has been  
37 determined to be satisfactory in accordance with section 22a-1e; or (iv)  
38 a facility with a diversion of water greater than two million gallons in  
39 any twenty-four-hour period that diverts water for public water supply  
40 purposes within a service area, as defined in regulations adopted  
41 pursuant to subsection (b) of section 22a-377, that includes the origin of  
42 such diversion;

43 (3) "Meaningful public participation" means (A) residents of an  
44 environmental justice community have an appropriate opportunity to  
45 participate in decisions about a proposed facility or the expansion of an  
46 existing facility that may adversely affect such residents' environment  
47 or health; (B) the public's participation may influence the regulatory

48 agency's decision; and (C) the applicant for a new or expanded permit,  
49 certificate or siting approval seeks out and facilitates the participation  
50 of those potentially affected during the regulatory process; [and]

51 (4) "Community environmental benefit agreement" means a written  
52 agreement entered into by the chief elected official or town manager of  
53 a municipality and an owner or developer of real property whereby the  
54 owner or developer agrees to develop real property that is to be used  
55 for any new or expanded affecting facility and to provide financial  
56 resources for the purpose of the mitigation, in whole or in part, of  
57 impacts reasonably related to the facility, including, but not limited to,  
58 impacts on the environment, including, but not limited to, air quality  
59 and watercourses, quality of life, asthma rates, traffic, parking and  
60 noise;

61 (5) "Council" means the Connecticut Siting Council;

62 (6) "Department" means the Department of Energy and  
63 Environmental Protection;

64 (7) "Environmental or public health stressors" means: (A) Sources of  
65 environmental pollution, including, but not limited to, concentrated  
66 areas of air pollution, mobile sources of air pollution, contaminated  
67 sites, transfer stations or other solid waste facilities, recycling facilities,  
68 scrap yards and point-sources of water pollution, including, but not  
69 limited to, water pollution from facilities or combined sewer overflows,  
70 or (B) conditions that may cause potential public health impacts,  
71 including, but not limited to, asthma, cancer, elevated blood lead levels,  
72 cardiovascular disease and developmental problems in any  
73 environmental justice community;

74 (8) "Major source" means (A) a major source of air pollution, as  
75 defined by the federal Clean Air Act or rules or regulations adopted by  
76 the department, or (B) an affecting facility that directly emits, or has the  
77 potential to emit, one hundred tons per year or more of any air pollutant  
78 or other applicable criteria set forth in the federal Clean Air Act; and

79       (9) "Permit" means any individual facility permit, license, certificate  
80 or siting approval issued by the department or council to a facility that  
81 establishes the regulatory and management requirements for a  
82 regulated activity pursuant to section 16-50k, 22a-174, 22a-208a or 22a-  
83 430. "Permit" does not include (A) any authorization or approval  
84 necessary to perform a remediation conducted in accordance with the  
85 regulations established pursuant to section 22a-133k; (B) applications  
86 for or registrations under general permits issued by the department,  
87 provided the Commissioner of Energy and Environmental Protection  
88 shall evaluate the potential for environmental and health stressors when  
89 issuing or renewing any general permit; (C) any permit for a facility  
90 with a diversion of more than two million gallons per day where such  
91 diverted water is used for public water supply purposes within the  
92 exclusive service area from where such water is diverted; (D) any  
93 authorization or approval required for a minor modification of a  
94 facility's major source permit for activities or improvements that do not  
95 increase emissions; or (E) any authorization or approval required for an  
96 extension of time to complete construction of a facility.

97       (b) (1) Applicants who, on or after January 1, 2009, seek to obtain any  
98 certificate under chapter 277a, new or expanded permit or siting  
99 approval from the Department of Energy and Environmental Protection  
100 or the Connecticut Siting Council involving an affecting facility that is  
101 proposed to be located in an environmental justice community or the  
102 proposed expansion of an affecting facility located in such a community,  
103 shall (A) file an assessment of environmental or public health stressors  
104 and a meaningful public participation plan with such department or  
105 council and shall obtain the department's or council's approval of such  
106 public participation plan prior to filing any application for such permit,  
107 certificate or approval; [and] (B) consult with the chief elected official or  
108 officials of the town or towns in which the affecting facility is to be  
109 located or expanded to evaluate the need for a community  
110 environmental benefit agreement in accordance with subsection (d) of  
111 this section; and (C) submit and receive approval of a public  
112 participation report that shall include, but not be limited to, (i) an

113 affidavit that the applicant satisfied the requirements of subdivisions (2)  
114 to (5), inclusive, of this subsection; (ii) all written comments received;  
115 and (iii) responses to concerns and questions presented in such written  
116 and verbal comments, including any changes to the activity or affecting  
117 facility proposed. Each assessment of environmental or public health  
118 stressors prepared pursuant to this subsection shall contain an  
119 assessment of the potential environmental and public health stressors  
120 associated with the proposed new or expanded affecting facility, as  
121 applicable, and shall identify any adverse environmental or public  
122 health stressors that cannot be avoided if the permit is granted, and the  
123 environmental or public health stressors already borne by the applicable  
124 environmental justice community.

125 (2) Each such meaningful public participation plan shall contain  
126 measures to facilitate meaningful public participation in the regulatory  
127 process and a certification that the applicant will undertake the  
128 measures contained in the plan. Such plan shall identify a time and place  
129 where an informal public meeting will be held that is convenient for the  
130 residents of the affected environmental justice community. In addition,  
131 any such plan shall identify the methods, if any, by which the applicant  
132 will publicize the date, time and nature of the informal public meeting  
133 in addition to the notice by mail required by subdivision (3) of this  
134 subsection and the publication required by subdivision [(3)] (4) of this  
135 subsection. Such methods shall include, but not be limited to, (A)  
136 posting a reasonably visible sign on the proposed or existing affecting  
137 facility property, printed in English, in accordance with any local  
138 regulations and ordinances, (B) posting a reasonably visible sign,  
139 printed in all languages spoken by at least fifteen per cent of the  
140 population that reside within a one-half of a mile radius of the proposed  
141 or existing affecting facility, in accordance with local regulations and  
142 ordinances, [and] (C) notifying local and state elected officials, in  
143 writing, and (D) a posting on electronic media, including, but not  
144 limited to, relevant Internet web sites and social media platforms,  
145 provided such notice is readily found by searching for the name of the  
146 affecting facility on the Internet. Such methods may include notifying

147 neighborhood and environmental groups, in writing, in a language  
148 appropriate for the target audience. The determination of the percentage  
149 of persons that speak a language, for purposes of subparagraph (B) of  
150 this subdivision, shall be made in accordance with the most recent  
151 United States census.

152 (3) Not less than thirty days prior to the informal public meeting, the  
153 applicant shall send a notice of such informal public meeting by mail to  
154 all residential households located not more than a one-half-mile radius  
155 of the proposed or existing affecting facility. Such notice shall provide  
156 the date, time and location of such meeting, a description of the  
157 proposed or expanded affecting facility, a map indicating the location of  
158 the affecting facility, information on how an interested person may  
159 review project documents, including any complete needs assessment,  
160 alternatives assessment, environmental impact analysis or assessment  
161 of environmental or public health stressors, addresses for mailed and  
162 Internet-based submission of written public comments and any other  
163 information deemed appropriate by the department or council. The  
164 applicant shall provide such notice in writing in all languages spoken  
165 by not less than fifteen per cent of the population that resides within  
166 such one-half-mile radius of the proposed or existing affecting facility.  
167 Such applicant shall subsequently send notice by mail to all such  
168 residential households of any subsequent public participation  
169 opportunities that occur as part of the permit approval process before  
170 the department or council, and to notify such residential households of  
171 any notice of tentative or final determination by the department or  
172 council.

173 ~~[(3)]~~ (4) Not less than ten days prior to the informal public meeting  
174 and not more than thirty days prior to such meeting, the applicant shall  
175 publish the date, time and nature of the informal public meeting with a  
176 minimum one-quarter page advertisement in a newspaper having  
177 general circulation in the area affected, and any other appropriate local  
178 newspaper serving such area, in the Monday issue of a daily publication  
179 or any day in a weekly or monthly publication. Such advertisement shall  
180 include information on how an interested person may review project

181 documents, including any complete needs assessment, alternatives  
182 assessment, environmental impact analysis and assessment of  
183 environmental and public health stressors. The applicant shall post a  
184 similar notification of the informal public meeting on the applicant's  
185 web site, if applicable.

186 ~~[(4)]~~ (5) At the informal public meeting, the applicant shall make a  
187 reasonable and good faith effort to provide clear, accurate and complete  
188 information about the proposed affecting facility or the proposed  
189 expansion of [a] such facility and the potential environmental and  
190 health impacts of such affecting facility or such expansion. The applicant  
191 shall accept written comments, submitted via mail or electronic mail,  
192 and oral comments from any interested party, and provide an  
193 opportunity for meaningful public participation at the informal public  
194 meeting. Not later than thirty days after such informal public meeting,  
195 the applicant shall submit to the department or council a public  
196 participation report, as described in subdivision (1) of this subsection.  
197 The applicant shall video record the informal public meeting and submit  
198 the recording to the department or council with the public participation  
199 report.

200 ~~[(5)]~~ (6) The Department of Energy and Environmental Protection or  
201 the Connecticut Siting Council shall not take any action on the  
202 applicant's application for a permit, license, certificate or approval  
203 earlier than [sixty days after the informal public meeting] the date the  
204 department or council approves the public participation report. For any  
205 such application filed on or after November 1, [2020] 2023, if the  
206 applicant fails to undertake the requirements of [subparagraphs (B) to  
207 (D), inclusive, of subdivision (2) of this subsection or subdivision (3) or  
208 (4) of] this subsection, any such application shall be deemed insufficient.  
209 The application of an applicant who fails to receive approval of such  
210 public participation report by the department or council, as applicable,  
211 shall be deemed insufficient.

212 ~~[(6)]~~ (7) In the event that the Connecticut Siting Council has approved  
213 a [meaningful public participation plan] public participation report

214 concerning a new or expanded affecting facility and an informal public  
215 meeting has been held in accordance with this subsection, the  
216 Department of Energy and Environmental Protection may [approve  
217 such plan and] waive the requirement that an additional informal public  
218 meeting be held in accordance with this subsection.

219 (8) In addition to any other fee authorized by law, rule or regulation,  
220 the department or council, as applicable, may assess each permit, license  
221 or certificate applicant a reasonable fee in order to cover the costs  
222 associated with the implementation of this section, including all costs to  
223 provide technical assistance to permit applicants and environmental  
224 justice communities to comply with the provisions of this section.

225 (c) Any municipality, owner or developer may enter into a  
226 community environmental benefit agreement in connection with an  
227 expanded or new affecting facility. For any application filed on or after  
228 November 1, 2020, for such an affecting facility that: (1) Requires a  
229 certificate under chapter 277a, or (2) constitutes a new or expanded  
230 permit or siting approval from the Department of Energy and  
231 Environmental Protection or the Connecticut Siting Council, and that is  
232 located in an environmental justice community or is proposed to be  
233 located in such a community, the applicant shall enter into such an  
234 agreement with the municipality if there are five or more affecting  
235 facilities in such municipality at the time such application is filed.  
236 Mitigation may include both on-site and off-site improvements,  
237 activities and programs, including, but not limited to: Funding for  
238 activities such as environmental education, diesel pollution reduction,  
239 electric vehicle charging infrastructure construction, establishment of a  
240 wellness clinic, ongoing asthma screening, provision of air monitoring  
241 performed by a credentialed environmental professional, performance  
242 of an ongoing traffic study, watercourse monitoring, construction of  
243 biking facilities and multi-use trails, staffing for parks, urban forestry,  
244 support for community gardens or any other negotiated benefit to the  
245 environment in the environmental justice community. Prior to  
246 negotiating the terms of a community environmental benefit agreement,  
247 the municipality shall provide a reasonable and public opportunity for



248 residents of the potentially affected environmental justice community to  
249 be heard concerning the requirements of or need for, and terms of, such  
250 agreement.

251 (d) The chief elected official or town manager of a municipality shall  
252 participate in the negotiations for any such community environmental  
253 benefit agreement and shall implement, administer and enforce such an  
254 agreement on behalf of the municipality, provided any such agreement  
255 negotiated pursuant to this section on and after November 1, 2020, shall  
256 be approved by the legislative body of the municipality prior to  
257 implementation, administration and enforcement of such agreement.

258 (e) The terms of any community environmental benefit agreement  
259 negotiated, entered into and approved in accordance with this section  
260 on and after November 1, 2020, shall not constitute a separate and  
261 distinct basis for a pleading to intervene in any administrative, licensing  
262 or other proceeding pursuant to section 22a-19.

263 (f) (1) The Commissioner of Energy and Environmental Protection  
264 shall adopt regulations, in accordance with the provisions of chapter 54,  
265 as are necessary and proper to carry out the purposes of this section. The  
266 provisions of subsection (g) of this section shall not take effect until the  
267 adoption of the regulations pursuant to this subsection. Such  
268 regulations shall include, but not be limited to, provisions regarding:  
269 (A) Procedures and requirements for creating the meaningful public  
270 participation plan and the public participation report required by this  
271 section; (B) the identification and measurement of the relative impact of  
272 environmental and public health stressors across communities; (C) tools  
273 for stakeholder industries and sectors to use that take account of any  
274 such environmental or public health stressors, including tools to help  
275 inform decisions about potential locations for new or expanded  
276 affecting facilities that comply with the provisions of this section; and  
277 (D) standards for denying or placing conditions on permits. The  
278 commissioner shall consult with stakeholder industries and sectors  
279 when developing the regulations pursuant to this section.

280 (2) Notwithstanding any provision of the general statutes, the  
281 commissioner may subject the renewal of any permit issued for an  
282 affecting facility to some or all of the provisions of this section and any  
283 regulation adopted pursuant to this subsection by adopting regulations,  
284 in accordance with the provisions of chapter 54, that include, but are not  
285 limited to, the identification of: (A) Each type of renewal permit subject  
286 to the provisions of this subdivision; (B) the types of affecting facilities  
287 subject to the provisions of this subdivision; and (C) the specific  
288 requirements of this section and any regulation adopted pursuant to this  
289 subsection that apply to each such renewal permit and affecting facility.  
290 No renewal permit shall be subject to the requirements of this section  
291 prior to the effective date of regulations adopted pursuant to this  
292 subdivision.

293 (g) (1) On and after the adoption of regulations pursuant to  
294 subdivision (1) or (2) of subsection (f) of this section, the department's  
295 review of any such application or renewal permit shall be conducted in  
296 accordance with any such regulations, as applicable, and the council's  
297 review of any such application may be conducted in accordance with  
298 any such regulations.

299 (2) The department or the council, as applicable, may deny any  
300 application for a permit for a new affecting facility upon a finding that  
301 approval of the permit, as proposed, would, together with other  
302 environmental or public health stressors affecting the applicable  
303 environmental justice community, result in adverse cumulative  
304 environmental or public health stressors in such environmental justice  
305 community that are higher than those borne by other communities  
306 within the state, county or other geographic unit of analysis, as  
307 determined by the department or council. Any such determination by  
308 the department shall be made in accordance with the applicable  
309 regulations adopted pursuant to subsection (f) of this section and any  
310 such determination by the council may be made in accordance with such  
311 regulations.

312 (3) If such permit is granted, the department or council, as applicable,

313 may impose conditions on the construction and operation of the new  
314 affecting facility that are intended to mitigate environmental and public  
315 health impacts.

316 (4) The department or the council, as applicable, shall provide notice,  
317 in writing, to any applicant for any such new affecting facility of any  
318 tentative determination regarding compliance with the applicable  
319 regulations adopted pursuant to subsection (f) of this section.

320 (5) If any hearing is held on any application or renewal permit subject  
321 to the requirements of this section, compliance with the applicable  
322 regulations adopted pursuant to subsection (f) of this section shall be  
323 considered at such hearing.

324 (6) The department or council, as applicable, shall publish any  
325 determination made pursuant to this subsection to the department's or  
326 council's Internet web site.

327 (h) Notwithstanding any provision of the general statutes, the  
328 department or council, as applicable, may, after review of the public  
329 participation report and any other relevant information, including  
330 testimony and written comments received in connection with the  
331 meaningful public participation plan, apply conditions to a permit for  
332 the expansion of an existing affecting facility concerning the  
333 construction and operation of the facility to protect the environment and  
334 public health, upon a finding by the department or council, as  
335 applicable, that approval of such permit, as proposed, would, together  
336 with other environmental or public health stressors affecting the  
337 applicable environmental justice community, result in adverse  
338 cumulative environmental or public health stressors in such  
339 environmental justice community that are higher than those borne by  
340 other communities in the state, county or other geographic unit of  
341 analysis, as determined by the department or council. Any such  
342 determination by the department shall be made in accordance with the  
343 applicable regulations adopted pursuant to subsection (f) of this section  
344 and any such determination by the council may be made in accordance

345 with such regulations.

346 (i) If a permit applicant applies for more than one permit for a  
347 proposed new or expanded affecting facility, the permit applicant shall  
348 only be required to comply with the provisions of this section once,  
349 unless the department or council, as applicable, determines that more  
350 than one informal public meeting is necessary due to the complexity of  
351 the permit applications necessary for the proposed new or expanded  
352 affecting facility. Nothing in this subsection shall be construed to limit  
353 the authority of the department or council to hold or require any public  
354 hearing, as may be required by any other provision of the general  
355 statutes, federal law or rule or regulation.

356 (j) Nothing in this section shall be construed to limit the right of an  
357 applicant to continue facility operations during the process of permit  
358 approval to the extent such right is conveyed by an applicable law, rule  
359 or regulation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	22a-20a

**Statement of Purpose:**

To enhance the environmental and public health considerations made under the state's environmental justice statute and provide the Department of Energy and Environmental Protection and the Connecticut Siting Council with the ability to deny certain permits for a new affecting facility and apply conditions to the expansion of an existing facility.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*